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MAR 3 1993

ALAN RAYWID
(1930-1991)

FEDERAL COMMUNICATIONS COMMISSION
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March 3, 1993

Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, D.C. 20554

Re: Notification of Permitted Ex Parte Presentation
MM Docket No. 92-265

Dear Ms. Searcy:

Superstar Connection, by its attorneys and pursuant to Section 1.1206(a)(2) of the Commission's rules, hereby submits an original and one copy of this memorandum regarding a permitted ex parte presentation to the Commission's staff regarding MM Docket No. 92-265.

On Thursday, February 25, 1993, Jeff Treeman, President of United Video, Inc., a company commonly owned with Superstar Connection, and John Seiver and Wes Heppler of Cole, Raywid and Braverman met with Robert Corn-Revere, Legal Advisor to Chairman Quello and then separately met with John Hollar and Amy Zaslov, Legal Advisors to Commissioner Ervin Duggan. The discussion related to United Video, Inc.'s comments and reply comments filed in response to the Notice of Proposed Rule Making in MM Docket No. 92-265, FCC 92-543 rel. Dec. 24, 1992), which sought comment on the implementation of Sections 12 and 19 of the Cable Television Consumer Protection and Competition Act of 1992. Those provisions deal with the development of competition and diversity in video programming distribution and carriage. The attached handout was also provided.

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041

COLE, RAYWID & BRAVERMAN

Donna R. Searcy
Secretary
March 3, 1993
Page Two

Should you have any questions, please contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Wesley R. Heppler', with a long, sweeping horizontal line extending to the right.

Wesley R. Heppler

Attachment

cc: Robert Corn-Revere
John Hollar
Amy Zaslov

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**AN OVERVIEW
OF
SUPERSTATION OPERATIONS
PRESENTED TO THE
FCC**

**PREPARED BY
UNITED VIDEO, INC**

FEBRUARY, 1993

UNITED VIDEO HAS PROVIDED SUPERSTATION SERVICES SINCE 1965, AND SATELLITE SUPERSTATION SERVICES SINCE 1978...

- Cable rates we currently charge and our present pricing structure were contained in tariffs which were filed with the FCC.
- Since 1968 we have operated under many different pricing structures. Based on our experience, the current structure is the simplest, most well-accepted by all of our customers.
- Satellite carriers have been found by the FCC to be "non-dominant" carriers because of the competitive nature of the market.

UNITED VIDEO PIONEERS ACCESS

- United Video, Inc. is currently serving FBO -- cable, SMATV, MMDS, -- and translators (non-profit). Superstar Connection is serving HSD consumers, both directly and through distributors.
- We began serving HSD and MMDS early in their development, even before they had standing in copyright law.
- We do not grant geographical exclusivity with the sale of our services and serve competing companies in the same market.
- UVI's commitment to serve all qualified parties has been firm in spite of increasing business liabilities and conflicts with existing customers.

UNITED VIDEO, INC.'S PRICING HAS STOOD THE TEST OF TIME

- Since 1965 UVI has operated under the Communications Act, which in Section 202A prohibits unreasonable discrimination in pricing.
- Our pricing structure has evolved over 14 years and is necessary to meet competitive and customer demands.
- During this period, United Video's pricing has been subject to constant review and has never been found to be discriminatory.
- Even monopoly carriers have discretion in pricing so long as it is not unreasonably discriminatory.
- Lack of flexibility in volume discounts would seriously handicap UVI's ability to compete against cable networks and other satellite broadcast programming distributors.

THE UVI PRICING STRUCTURE DOES NOT "HINDER" OR "PREVENT" PROVISION OF SUPERSTATION SERVICES TO ANYONE

UVI'S FBO PRICING STRUCTURE

- Is based on a per subscriber (home) fee, subject to a minimum amount and also subject to discounts.
- Discounts are for:
 1. Volume -- the number of subscribers (homes) under one agreement.
 2. Pre-payment of fees (currently 10%).
- Volume discounts were adopted because of:
 1. Competitive necessity -- other program services priced with volume discounts.
 2. Customer demands -- customers threatened to not add UVI signals unless they had "favored nations" clauses in contracts.
 3. Volume discounts have been offered by other monopoly carriers (i.e., phone companies).
 4. To recognize economies of scale in marketing and other costs.

THE SATELLITE SUPERSTATION BROADCAST PROGRAMMING VENDOR BUSINESS IS NON-EXCLUSIVE AND HIGHLY COMPETITIVE

CARRIER	CARRIER	CARRIER	CARRIER	CARRIER	CARRIER
NETLINK	UVI SUPER- STAR	EASTERN MICRO- WAVE	PRIME- TIME 24	PRIME- STAR	SOUTHERN SATELLITE SYSTEMS
SUPERSTATIONS <ul style="list-style-type: none"> • KUSA - ABC • KCNC - NBC • KMGH - CBS • KRMA - PBS • KWGN 	SUPERSTATIONS <ul style="list-style-type: none"> • WGN * • WPIX * • KTVT * • KTLA 	SUPERSTATIONS <ul style="list-style-type: none"> • WWOR * • WSBK * 	SUPERSTATIONS <ul style="list-style-type: none"> • WRAL - CBS • WABC - ABC • WXIA - NBC 	SUPERSTATIONS <ul style="list-style-type: none"> • WGN * • WPIX * • KTLA * • WTBS * • WWOR * • WSBK * • KTVU 	SUPERSTATIONS <ul style="list-style-type: none"> • WTBS *
C-BAND	C-BAND	C-BAND	C-BAND	K-BAND	C-BAND

* TRANSMITTED ON SEPARATE SATELLITES

**SIXTEEN SUPERSTATIONS ARE AVAILABLE FROM SIX CARRIERS TO
CONSUMERS FROM THE FACILITIES-BASED OPERATORS AND HSD CLASSES OF SERVICE**

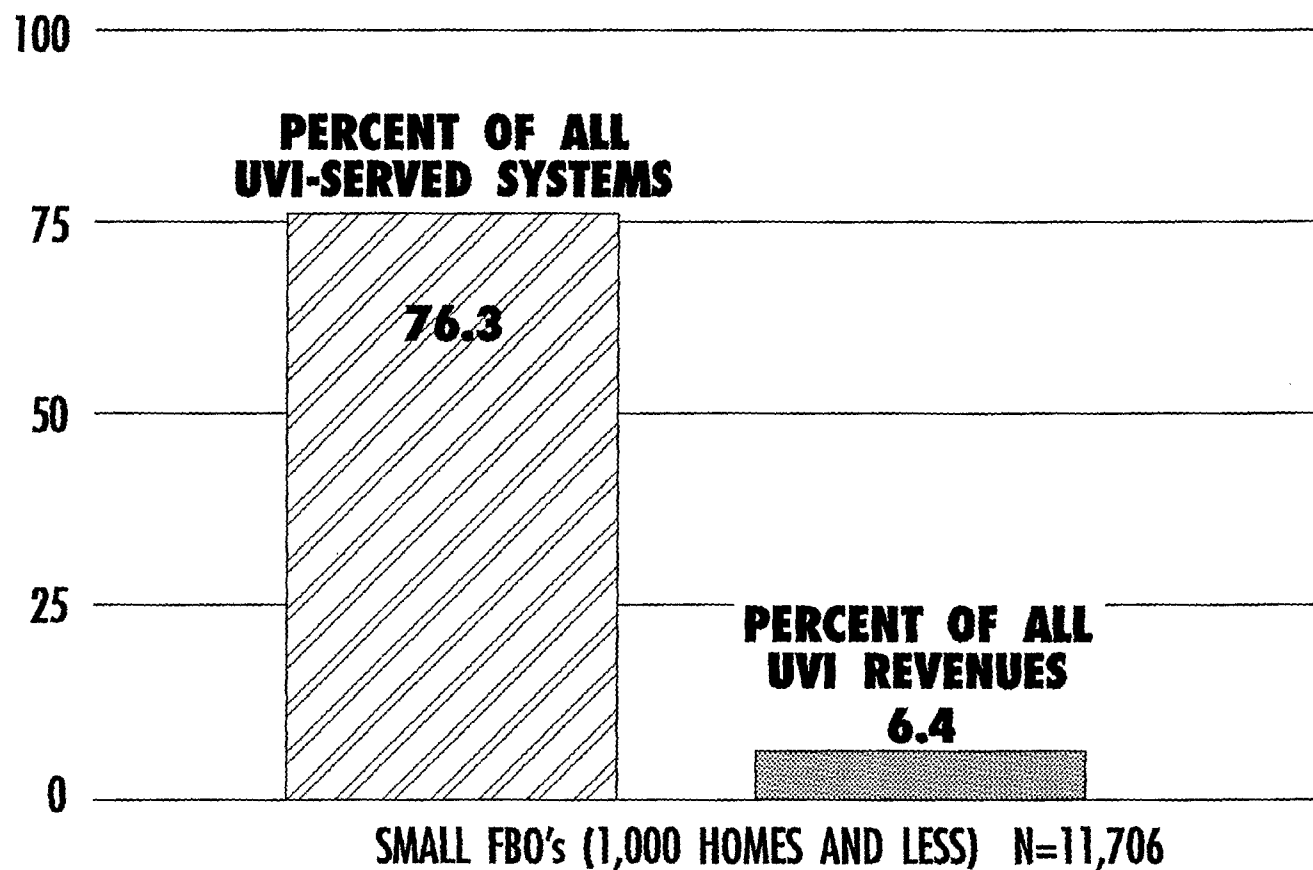
**THE REAL CONSUMER COST OF ALLEGED "DISCRIMINATION" IN SUPERSTATION
PRICING -- MINISCULE DIFFERENCES IN COMPARISON WITH THE "PERCENTAGE
DIFFERENCE" OFTEN CITED BY PRICING CRITICS**

	<u>SMALL FBO SYSTEM (1,000 SUBS)</u>	<u>LARGE FBO SYSTEM (25,000 SUBS)</u>
BASIC REVENUE/MO.	<u>\$16.00</u>	<u>\$16.00</u>
PROGRAMMING COSTS/MO.	<u>\$ 8.00</u>	<u>\$ 6.00</u>
UVI/WGN-VENDOR FEE/MO.	\$ 0.10	\$ 0.06
UVI/WGN COPYRIGHT/MO.	<u>\$ 0.00</u>	<u>\$ 0.16</u>
UVI/WGN-TOTAL COST/MO.	\$ 0.10	\$ 0.22
<hr/>		
UVI/WGN FEE \$ DIFFERENCE		+\$0.12
UVI/WGN FEE % DIFFERENCE	+20%	
UVI/WGN FEE AS % OF BASIC REVENUE	0.63%	0.75%
UVI/WGN FEE AS % OF PROGRAMMING COSTS	1.25%	2.00%

*NOTE: UVI FACILITIES-BASED OPERATOR PRICING IS \$100 MINIMUM, WHICH TRANSLATES TO 834 SUBSCRIBER (HOMES) AT .10¢ PER SUB PER MONTH.

UNDER UVI'S CURRENT FBO PRICING SMALL SYSTEMS CONTRIBUTE A RELATIVELY SMALL SHARE OF REVENUES

PERCENTAGES



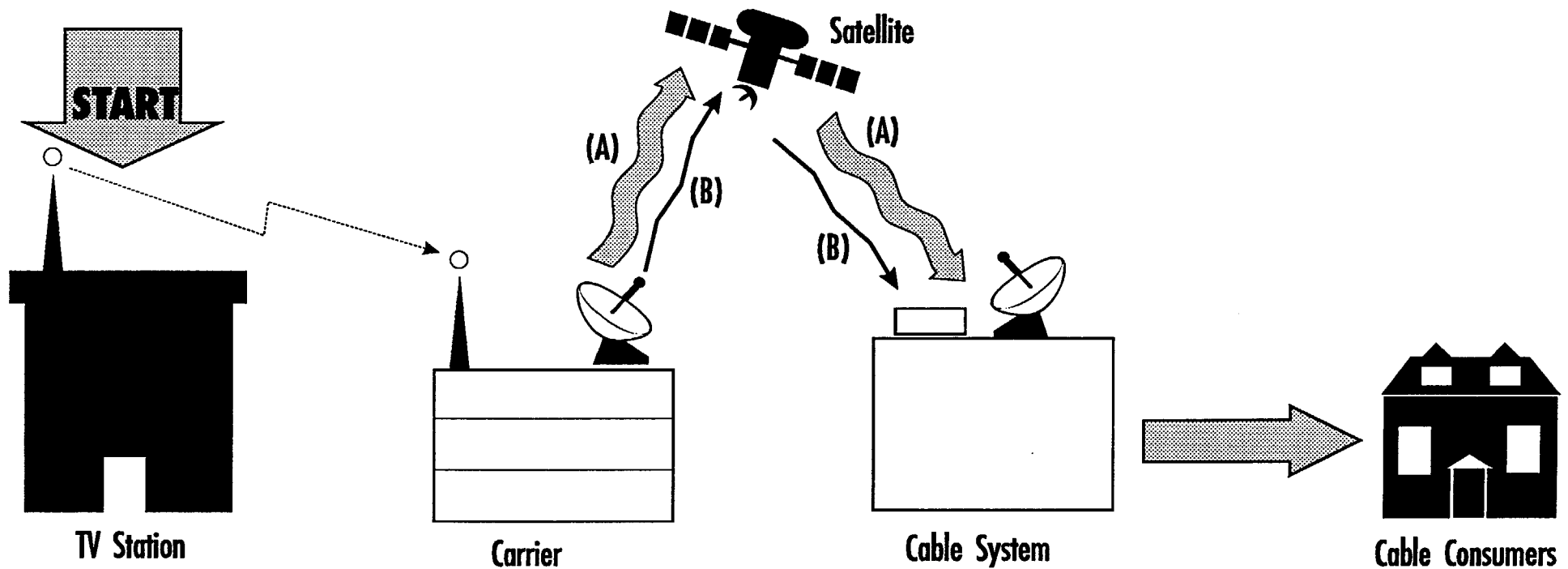
**SMALL SYSTEM REVENUE FOR WGN/UVI IS NOT ENOUGH
IN TOTAL TO PAY FOR THE SATELLITE TRANSPONDER
AND UPLINKING FOR THAT SERVICE**

SATELLITE SUPERSTATION BROADCAST PROGRAMMING VENDORS ARE GREATLY DIFFERENT THAN CABLE NETWORKS

THE SUPERSTATION MARKET IS MUCH MORE OPEN TO COMPETITIVE ENTRANTS

	<u>CABLE NETWORK</u>	<u>SUPERSTATION VENDOR</u>
• Owns Exclusive Right of Distribution	YES	NO
• Sells National Ads	YES	NO
• Subject to Syndex Rules	NO	YES
• Cable Ops Must Pay Copyright on Top of Subscriber Fee	NO	YES
• Subject to Legal/Regulatory Blackouts	NO	YES
• Capital Requirements for Start-up	HIGH	LOW
• Subject to Pricing Restriction under 1934 Communications Act	NO	YES

SUPERSTATION SERVICES TO FACILITIES-BASED OPERATORS CONSIST OF A UNIQUE SET OF COSTS



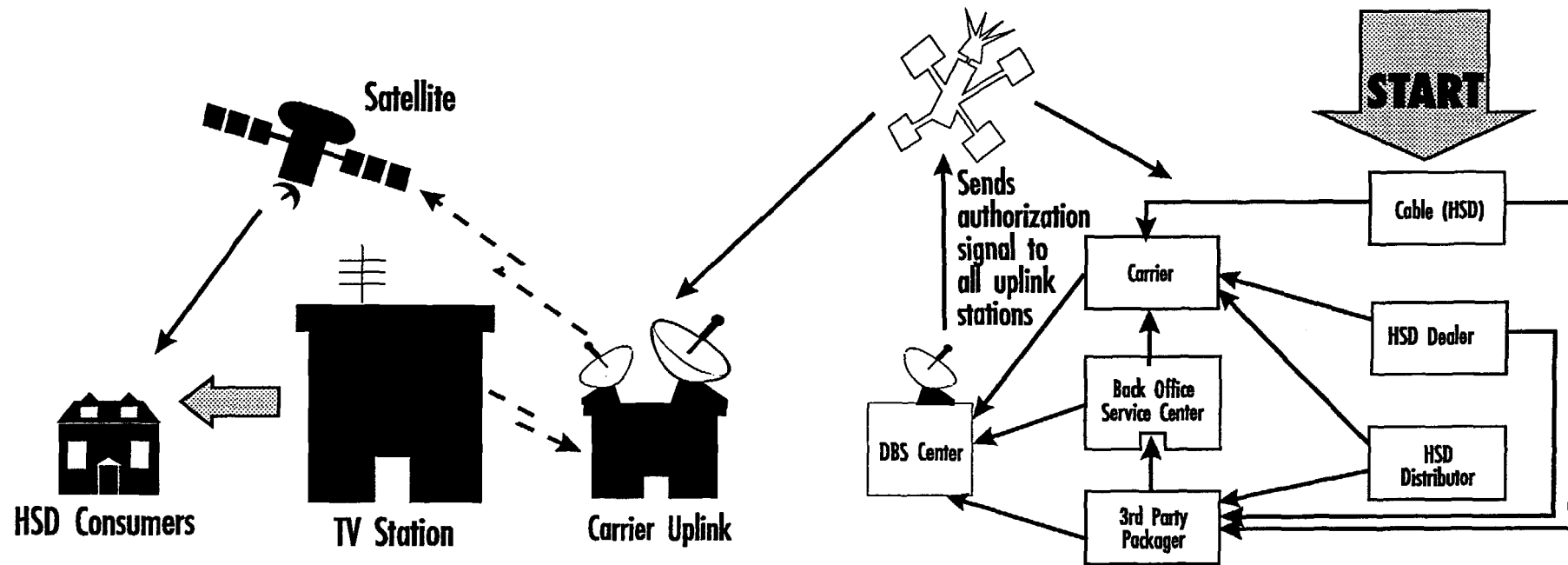
CARRIER SERVICES FOR THE FACILITIES-BASED OPERATOR MARKET

1. Uplink facility cost
2. Lease of satellite transponder
3. Receives/retransmits TV signal (A)
4. Receives/retransmits authorization signal (B)
5. Provides transmission redundancy
6. Monitors signal
7. Maintains database of customers/descramblers
8. Maintains UVI-cable authorization center and equipment
9. Authorizes cable system
10. Provides syndex substitute programming and administration
11. Provides schedules, program listings and community affairs programs to consumers through cable system
12. Provides technical/administrative services to cable systems for syndex, network nonduplication, KIDVID compliance, etc.
13. Bills cable system
14. Deauthorizes cable system
15. Polices unauthorized reception
16. Provides on-screen messaging for cable systems

SUPERSTATION SERVICES TO HSD CONSUMERS CONSIST OF A UNIQUE SET OF COSTS

VENDOR'S ROLE IS MORE COST-INTENSIVE IN HSD

(THE HSD BUSINESS IS DEPENDENT ON BOTH CONSUMER AND DISTRIBUTOR REVENUE)



VENDOR SERVICES FOR HSD MARKET

1. Uplink facility cost
2. Lease of satellite transponder
3. Receives/retransmits TV signal to consumers
4. Receives/retransmits authorization signal
5. Inputs/uplinks tier addressable messages
6. Monitors TV signal
7. Markets and sells to:
 - Consumers
 - 3rd party packages
 - HSD Dealers
 - HSD Distributors
 - Cable Systems (HSD)
8. DBS Center:
 - Leases/bills tier bit and port at DBS Center
 - Sends authorization signal to center
 - Message transactions
 - Records authorized descrambler numbers for center
 - Submits reports to users)
9. Provides customer service for consumers, packages dealers, distributors and cable systems (HSD)
10. Files semi-annual copyright payment
11. Provides administration and billing services to consumers, packagers, dealers, distributors and cable systems.

SALES AGENTS (PACKAGERS, DEALERS AND DISTRIBUTORS)

3RD PARTY PACKAGER

1. Sells programming to dealers, distributors and consumers
2. Sends authorization signal to DBS center
3. Leases port at DBS Center
4. Bills customers
5. Sends deauthorization signal to DBS Center for customers

HSD DEALER

1. Sells and installs equipment
2. Sells programming subscriptions to consumers

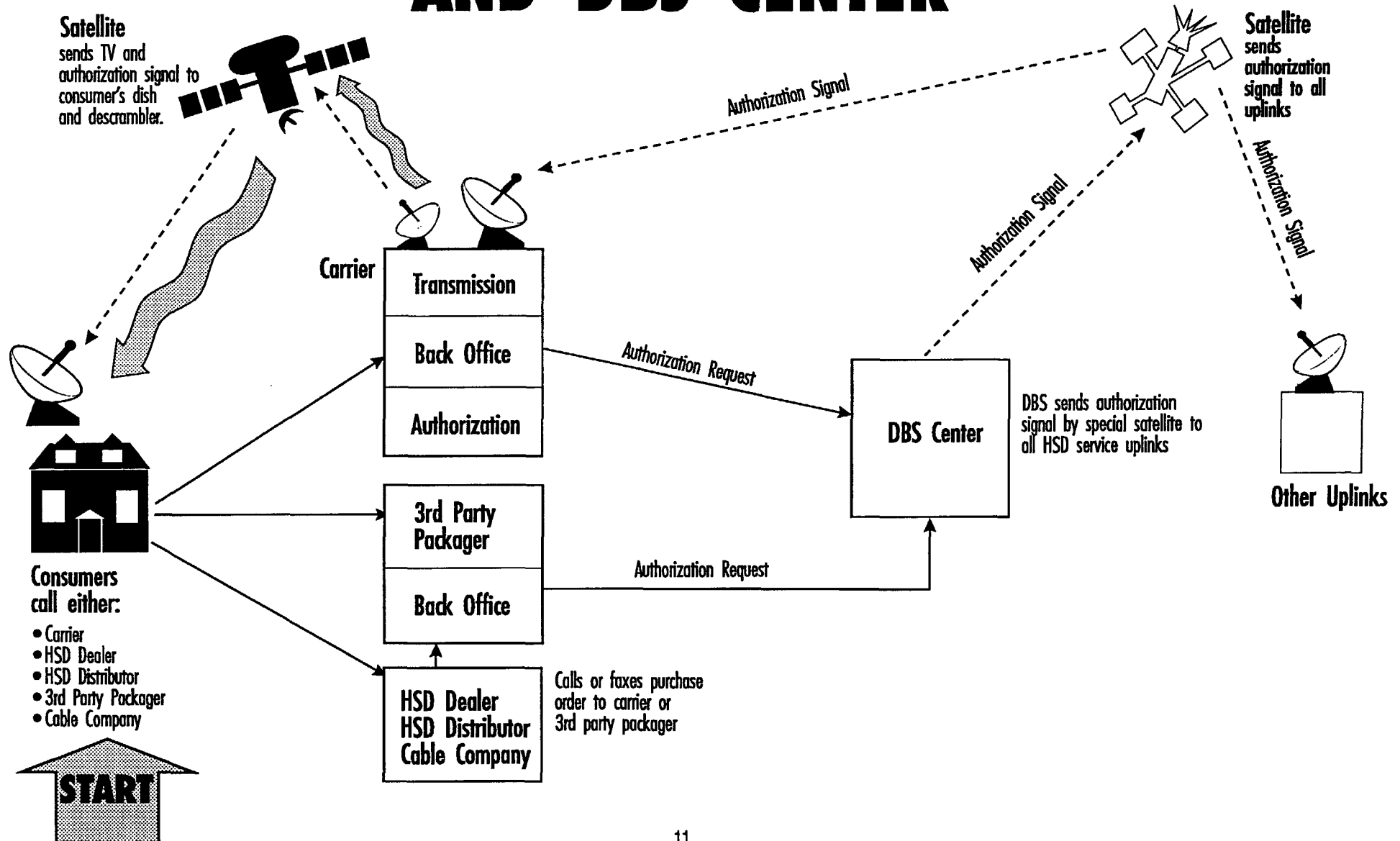
HSD DEALER, continued

3. Calls carrier or 3rd party packager for consumer authorization
4. Takes consumer service calls

HSD DISTRIBUTOR

1. Sells equipment to equipment dealers
2. Markets and sells programming to dealers and consumers
3. Calls carrier or 3rd party packager for authorization
4. Bills dealers and consumers
5. Takes consumer service calls
3. Calls carrier or 3rd party packager for deauthorization

HSD SUPERSTATION CONSUMER AUTHORIZATION INVOLVES CARRIER AND DBS CENTER



THE UNIQUE COSTS OF EACH CLASS OF SATELLITE BROADCAST PROGRAMMING VENDOR SERVICE EXCEED THE COMMON COSTS

FBO* SERVICE CLASS UNIQUE COSTS

- Cable Encryption
- Cable Decryption
- Cable Authorization
- Signal Authorization Process
- Sales to Cable Consumers
- Syndex Administration
- Syndex Replacement Programs
- Program Schedules & Listings
- KidVid Compliance
- Community Affairs Programs
- Customer Billing & Collections
- Customer Technical and Administrative Support
- Policing Unauthorized Reception
- On-screen Messaging

COMMON CABLE AND HSD COSTS (Costs Associated with either HSD or Cable Delivery)

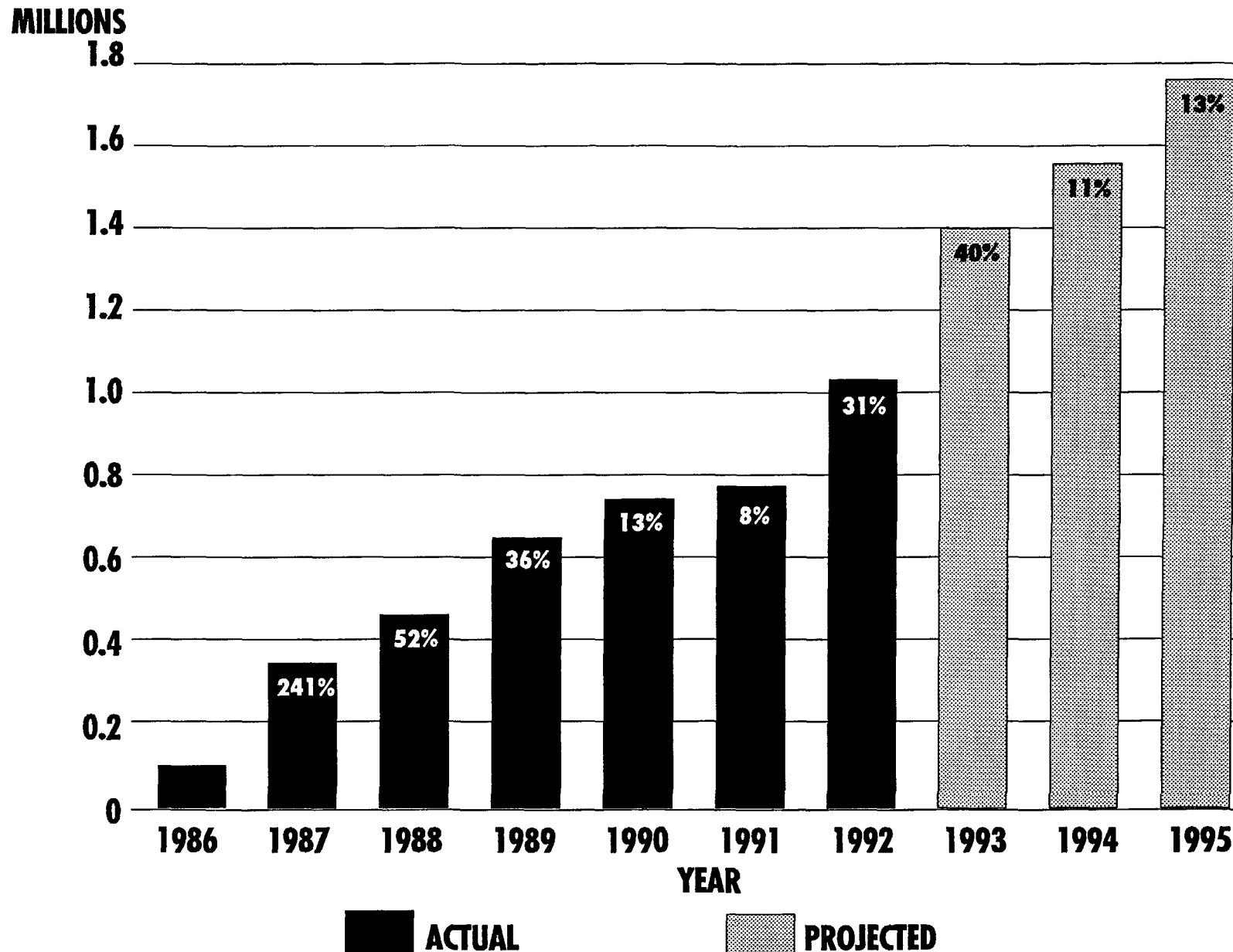
- Signal Uplink
- Transponder Lease
- Signal Monitoring
- Transmission Redundancy

HSD SERVICE CLASS UNIQUE COSTS

- HSD Encryption
- HSD Decryption
- HSD Authorization
- Signal Authorization Process
- Sales to HSD Consumers
- Distribution/Agent Sign-Up
- Copyright Filing
- DBS Center Fees
- Customer Billing & Collections
- Consumer Services for Distributors/Agents
- Policing Unauthorized Reception
- On-screen Messaging

	FBO	Common	HSD
Households Served	31,000,000	31,800,000	800,000
Cost Indexed To	11,000	10,000	15,000
Common Costs (Common Cost = 10,000)			
Indexed Cost Per H/H Served	.0004	.0003	.0190
Total Indexed Cost H/H For Each Class	.0007	← Added →	.0193

THE RAPID GROWTH OF THE HSD MARKET DOES NOT INDICATE THAT PRICING IS IMPEDING GROWTH



WHAT THE FACTS INDICATE... TO US, THEY INDICATE

- Superstations are non-exclusive and subject to a higher level of competitive threat than regular cable networks. Therefore, the regulations should provide for broad latitude in superstation pricing and discounts.
- There are two distinct classes of customers for superstation services, and each class has separate, unique, and significant costs. Regulation should recognize these differences.
- In order to insure that FCC resources focus only on well-founded complaints, regulation should require a substantiated prima facie case to be presented by the complainant. Such prima facie case should focus on consumer (marketplace) effects as opposed to differences in business terms and conditions.